

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

---

PAUL STEPHANSKI,

Plaintiff,

9:18-cv-0076 (BKS/CFH)

v.

RANDY ALLEN, THOMAS STACKLE and  
BRANDON PAYNE,

Defendants.

---

**Appearances:**

*Plaintiff, pro se*

Paul Stephanski

99-B-2439

Marcy Correctional Facility

PO Box 3600

Marcy, NY 13403

*For Defendants:*

Letitia James

Attorney General of the State of New York

Aimee Cowan

Assistant Attorney General, of Counsel

300 South State Street

Suite 300

Syracuse, NY 13202

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff Paul Stephanski, a New York State inmate, commenced this action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at the Cape Vincent Correctional Facility. (Dkt. No. 1). On June 26, 2019, Defendants filed a motion for summary judgment seeking dismissal of the complaint based upon Plaintiff's failure to exhaust his administrative remedies. (Dkt. No. 39). Plaintiff filed an opposition on August 26, 2019, to which Defendants

replied on August 30, 2019. (Dkt. Nos. 44, 45). This matter was referred to United States Magistrate Judge Christian F. Hummel, who issued a Report-Recommendation on January 22, 2020, recommending that Defendants’ motion for summary judgment be denied. (Dkt. No. 48). Magistrate Judge Hummel concluded that there is “an issue of material fact as [to] the availability of the grievance process, and, thus, whether administrative remedies were available” to Plaintiff. (*Id.* at 24). Magistrate Judge Hummel advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 25).

No objections have been filed. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 48) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendants’ motion for summary judgment (Dkt. No. 39) is **DENIED**; and it is further

**ORDERED** that the Court will schedule an evidentiary exhaustion hearing; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: February 18, 2020  
Syracuse, New York

  
Brenda K. Sannes  
U.S. District Judge